

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JAVON GORDON,	:	
	:	
Petitioner,	:	Civ. No. 14-6760 (RBK)
	:	
v.	:	MEMORANDUM AND ORDER
	:	
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	
	:	

JAVON R. GORDON,	:	
	:	
Petitioner,	:	Civ. No. 15-2686 (RBK)
	:	
v.	:	MEMORANDUM AND ORDER
	:	
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	
	:	

Petitioner is a federal prisoner proceeding *pro se* with a motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. In Civ. No. 14-6760, this Court administratively terminated that case as petitioner had failed to file his § 2255 on the proper updated form. Petitioner was given leave to file his § 2255 motion on the proper form. Petitioner was subsequently given until April 25, 2015 to file his § 2255 motion on the proper form. (*See* Civ. No. 14-6760, Dkt. No. 10.)

On April 15, 2015, this Court received petitioner's motion to vacate, set aside or correct his sentence and the Clerk docketed it under a new civil docket number, Civ. No. 15-2686. Petitioner's motion in Civ. No. 15-2686 challenges the same judgment and sentence that petitioner is challenging in Civ. No. 14-6760. Thus, it appears clear to the Court that the motion

in Civ. No. 15-2686 should be docketed as an amended § 2255 motion in Civ. No. 14-6760 based on the procedural history that only administratively terminated that case with leave to reopen. *C.f. Ching v. United States*, 298 F.3d 174, 177 (2d Cir. 2002) (“[W]hen a § 2255 motion is filed before adjudication of an initial § 2255 motion is complete, the district court should construe the second § 2255 motion as a motion to amend the pending § 2255 motion); *see also Woods v. Carey*, 525 F.3d 886, 890 (9th Cir. 2008) (finding that district court should have construed *pro se* habeas petition as a motion to amend pending habeas petition). Once the § 2255 motion is re-docketed as an amended § 2255 motion in Civ. No. 14-6760, the Court will proceed to screening the amended § 2255 motion pursuant to Rule 4 of the Rules Governing § 2255 cases.

Accordingly, IT IS this 29th day of April, 2015,

ORDERED that the Clerk shall re-docket petitioner’s § 2255 motion (Dkt. No. 1.) in Civ. No. 15-2686 as an amended § 2255 motion in Civ. No. 14-6760; and it is further

ORDERED that the Clerk shall reopen Civ. No. 14-6760; and it is further

ORDERED that the Clerk shall mark Civ. No. 15-2686 as closed because petitioner’s § 2255 motion in that case has been construed as an amended § 2255 motion in Civ. No. 14-6760 and will be docketed as such; and it is further

ORDERED that the Court will screen the amended § 2255 motion in Civ. No. 14-6760 in due course pursuant to Rule 4 of the Rules Governing § 2255 cases.

s/Robert B. Kugler
ROBERT B. KUGLER
United States District Judge